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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,586

02/20/2004

Charles Randall Yates

2002-051

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EXAMINER

FOX, BRYAN J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

10/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/783,586	Applicant(s) YATES ET AL.	
	Examiner Bryan J. Fox	Art Unit 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 37-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 24, 2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-9, 11-17, 19, 20 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey in view of Chandhok et al (WO 2004012421).

Regarding **claim 1**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "controller in a wireless network for establishing a local ad hoc group session between an inviting mobile terminal and local mobile terminals." The telecommunication infrastructure may determine the distances of mobiles from a list and initiate the telephone call with the mobiles within a certain distance (see paragraphs 49-54), which reads on the claimed, "presence server for identifying local mobile terminals within a local area of the inviting mobile terminal," and, "server for establishing the local ad hoc group session between the inviting mobile terminal and one or more local mobile terminals responsive to a request from the inviting mobile terminal." The user may also optionally select a predetermined maximum connection distance, or alternately use a default choice (see paragraph 49), which reads on the claimed, "group server configured to filter the identified local mobile terminals based on a user-specified local area restriction." The selection process might preferably select only up to a predetermined maximum number of nearby callees within the predefined maximum distance, or another alternative may be to select the closest predetermined number of users within the group (see paragraph 54) and the phone numbers may be predetermined by being entered by the user (see paragraph 48), which reads on the claimed, "group server configured to filter the identified local mobile terminals based on a user-specified local area restriction and against one or more access lists stored in memory at the group server to identify preferred mobile terminals." Hendrey et al fail to disclose the use of push-to-talk.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a "push-to-talk" button (see paragraph 30).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality in order to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence as suggested by Chandhok et al (see paragraph 4).

Regarding **claim 2**, the combination of Hendrey et al and Chandhok et al disclose that if there are a plurality of callees meeting the criteria, a conference connection may be initiated by TU 201 using techniques well known in the art, or alternatively, instead of the TU initiating the connections, the telecommunication infrastructure may initiate any group connections (see Hendrey et al paragraph 52), which reads on the claimed, "the push-to-talk server sends an invite message the one or more of the preferred local mobile terminals and establishes the local ad hoc group session between the inviting mobile terminal and one or more of the preferred local mobile terminals that respond to the invite message."

Regarding **claim 3**, the combination of Hendrey et al and Chandhok et al disclose that the TU 201 may transmit a group identifier to customer information database 105 to select a predetermined group list 220 to use, and the infrastructure

determines the locations of all group members and initiates a connection with the closest members (see Hendrey et al paragraph 59-64), which reads on the claimed, "core server that receives the request from the inviting mobile terminal and forwards a list of the local mobile terminals identified by the presence server to the push-to-talk server."

Regarding **claim 4**, Hendrey et al fail to disclose filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal.

In a similar field of endeavor, Chandhok et al disclose a user who wishes to join a group of providers for a desired service may select the desired service category, which may include Internet services, such as Internet chat room, and data services, e.g. subscription information publishing services (see paragraph 33), which reads on the claimed, "filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above filter based on media-type restriction in order to allow a requester of a desired service to instantly get in touch with a local group of available providers for the desired service as suggested by Chandhok et al (see paragraphs 4 and 5).

Regarding **claim 5**, the combination of Hendrey et al and Chandhok et al disclose if one or more of the closest members of the group list cannot be connected, then additional callees are added to the connection until a desired number of callees is

reached and stay in the multi-party connection (see Hendrey et al paragraph 55), which reads on the claimed, "the push-to-talk server sends an invite message to each of the preferred local mobile terminals and establishes the local ad hoc group session between the inviting mobile terminal and one or more of the preferred local mobile terminals that respond to the invite message," wherein initiating the connection reads on inviting and establishing the connection reads on the response.

Regarding **claim 6**, the combination of Hendrey et al and Chandhok et al disclose that the invention may connect proximately located telecommunications users based in part on distance and in part on a profile associated with each user (see Hendrey et al paragraph 65) and the profile may contain information about likes and dislikes (see Hendrey et al paragraph 66), which reads on the claimed, "the group server further filters the local mobile terminals identified by the presence server based on a subject of interest identified by the inviting mobile terminal."

Regarding **claim 7**, the combination of Hendrey et al and Chandhok et al disclose that in one embodiment, the distances between mobiles may be actual travel distances taking into account walking the perimeter of city blocks when a map is available (see Hendrey et al paragraph 56), which reads on the claimed, "the presence server determines a current location of the inviting mobile terminal," wherein the location of the mobile terminal must be determined in order to use a map.

Regarding **claim 8**, the combination of Hendrey et al and Chandhok et al disclose the distance from the inviting mobile is used (see Hendrey et al paragraphs 49-

55), which reads on the claimed, "the presence server defines the local area based on the current location of the inviting mobile terminal."

Regarding **claim 9**, the combination of Hendrey et al and Chandhok et al disclose that the user may select a predetermined maximum connection distance (see Hendrey et al paragraph 49), which reads on the claimed, "the presence server receives a defined local area from the inviting mobile."

Regarding **claim 11**, the combination of Hendrey et al and Chandhok et al disclose the telecommunications infrastructure may select users who are within a predefined distance of the TU 201 (see Hendrey et al paragraph 51), which reads on the claimed, "the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals within a defined distance of the inviting mobile terminal."

Regarding **claim 12**, the combination of Hendrey et al and Chandhok et al disclose that the infrastructure determines the locations of all group members and stores them locally in group list 220, and this information may be continually updated (see Hendrey et al paragraph 61), which reads on the claimed, "memory for dynamically storing groups and dynamically storing updated lists of local mobile terminals within the local area of the inviting mobile terminal."

Regarding **claim 13**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "method of establishing a local ad hoc group session in a wireless



network between an inviting mobile terminal and local mobile terminals.” The telecommunication infrastructure may determine the distances of mobiles from a list and initiate the telephone call with the mobiles within a certain distance (see paragraphs 49-54), which reads on the claimed, “receiving a request to initiate the local ad hoc group session...from the inviting mobile terminal; using a presence server...to identify local mobile terminals within a local area of the inviting mobile terminal; establishing the local ad hoc group session between the inviting mobile terminal and one or more of the preferred local mobile terminals.” The user may also optionally select a predetermined maximum connection distance, or alternately use a default choice (see paragraph 49), which reads on the claimed, “filtering the identified local mobile terminals based on a user-specified local area restriction.” The selection process might preferably select only up to a predetermined maximum number of nearby callees within the predefined maximum distance, or another alternative may be to select the closest predetermined number of users within the group (see paragraph 54) and the phone numbers may be predetermined by being entered by the user (see paragraph 48), which reads on the claimed, “filtering...against one or more access lists stored in memory at a group server to identify preferred local mobile terminals in the local area.” Hendrey et al fail to disclose the use of push-to-talk.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a “push-to-talk” button (see paragraph 30).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality in order to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence as suggested by Chandhok et al (see paragraph 4).

Regarding **claim 14**, the combination of Hendrey et al and Chandhok et al disclose that if there are a plurality of callees meeting the criteria, a conference connection may be initiated by TU 201 using techniques well known in the art, or alternatively, instead of the TU initiating the connections, the telecommunication infrastructure may initiate any group connections (see Hendrey et al paragraph 52), which reads on the claimed, "sending an invite message to the preferred local mobile terminals within the local area of the inviting mobile terminal; and establishing the local ad hoc group session between the inviting mobile terminal and one or more of the preferred local mobile terminals that respond to the invite message."

Regarding **claim 15**, the combination of Hendrey et al and Chandhok et al disclose the use of a list of phone numbers that are filtered to find the nearest of that list (see Hendrey et al paragraphs 50-52), which reads on the claimed, "filtering identified local mobile terminals within the local area of the inviting mobile terminal based on at least one of a media type restriction."

Regarding **claim 16**, the combination of Hendrey et al and Chandhok et al disclose if one or more of the closest members of the group list cannot be connected,

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then additional callees are added to the connection until a desired number of callees is reached and stay in the multi-party connection (see Hendrey et al paragraph 55), which reads on the claimed, "sending an invite message to one or more of the preferred local mobile terminals; establishing the local ad hoc group session between the inviting mobile terminal and one or more of the preferred local mobile terminals that respond to the invite message," wherein initiating the connection reads on inviting and establishing the connection reads on the response.

Regarding **claim 17**, the combination of Hendrey et al and Chandhok et al disclose that the invention may connect proximately located telecommunications users based in part on distance and in part on a profile associated with each user (see Hendrey et al paragraph 65) and the profile may contain information about likes and dislikes (see Hendrey et al paragraph 66), which reads on the claimed, "filter the identified local mobile terminals within the local area of the inviting mobile terminal based on a subject of interest identified by the inviting mobile terminal."

Regarding **claim 19**, the combination of Hendrey et al and Chandhok et al disclose the distance from the inviting mobile is used (see Hendrey et al paragraphs 49-55), which reads on the claimed, "identify local mobile terminals within a local area of the inviting mobile terminal," and, "identifying local mobile terminals within a defined distance of the inviting mobile terminal."

Regarding **claim 20**, the combination of Hendrey et al and Chandhok et al disclose that the infrastructure determines the locations of all group members and

stores them locally in group list 220, and this information may be continually updated (see Hendrey et al paragraph 61), which reads on the claimed, "storing and dynamically updating groups of local mobile terminals within one or more local areas of the inviting mobile terminal."

Regarding **claim 37**, Hendrey et al disclose a system where a user initiates a group connection via a communication infrastructure (see paragraphs 49-50), which reads on the claimed, "controller in a wireless network for establishing a...communication session between an inviting mobile terminal and local mobile terminals." The telecommunication infrastructure may determine the distances of mobiles from a list and initiate the telephone call with the mobiles within a certain distance (see paragraphs 49-54), which reads on the claimed, "presence server for identifying one or more local mobile terminals within a local area of the inviting mobile terminal," and, "group server configured to...create an ad hoc group including the inviting mobile terminal and one or more local mobile terminals," and, "server for establishing the local ad hoc group session between the inviting mobile terminal and one or more local mobile terminals responsive to a request from the inviting mobile terminal." Hendrey et al further disclose the phone numbers may be predetermined by being entered by the user (see paragraph 48), which reads on the claimed, "one or more access lists stored in memory at the group server to identify one or more preferred local mobile terminals." Hendrey et al fail to disclose the use of push-to-talk or filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal.

In a similar field of endeavor, Chandhok et al disclose a group server that may allow one user to communicate in half-duplex mode where permission to talk may be moderated by the infrastructure and a user may request permission to talk by pressing a "push-to-talk" button (see paragraph 30). Further, a user who wishes to join a group of providers for a desired service may select the desired service category, which may include Internet services, such as Internet chat room, and data services, e.g. subscription information publishing services (see paragraph 33), which reads on the claimed, "filtering the local mobile terminals based on a media type restriction identified by the inviting mobile terminal."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Hendrey et al with Chandhok et al to include the above push-to-talk functionality and filter based on media-type restriction in order to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence and to allow a requester of a desired service to instantly get in touch with a local group of available providers for the desired service as suggested by Chandhok et al (see paragraphs 4 and 5).

Regarding **claim 38**, the combination of Hendrey et al and Chandhok et al discloses the user may optionally select a predetermined maximum connection distance (see Hendrey et al paragraph 49), which reads on the claimed, "the group server is further configured to filter the identified local mobile terminals based on a user-specified radius."

Regarding **claim 39**, the combination of Hendrey et al and Chandhok et al discloses the user may optionally select a predetermined maximum connection distance (see Hendrey et al paragraph 49), which reads on the claimed, "the group server is further configured to filter the identified local mobile terminals based on a user-specified geographic region."

Regarding **claim 40**, the combination of Hendrey et al and Chandhok et al discloses the phone numbers may be predetermined by being entered by the user (see Hendrey et al paragraph 48), which reads on the claimed, "the one or more access lists comprise one or more user-specified grant lists."

Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey et al in view of Chandhok et al, and further in view of Fraccaroli (US006549768B1).

Regarding **claim 10**, the combination of Hendrey et al and Chandhok et al fails to disclose the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals in at least a portion of the same cell as the inviting mobile terminal.

In a similar field of endeavor, Fraccaroli discloses that when the handset registers into the base station, the ID of the handset can be sent to the MSC and formed into groups of mobile stations registered in the same base station. These groups of mobile station IDs can be sent to the HLR and its respectively collocated server to match and couple the profiles (see column 5, lines 4-11), which reads on the claimed,

“the presence server identifies local mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals in at least a portion of the same cell as the inviting mobile terminal.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Hendrey et al and Chandhok et al with Fraccaroli to include the above grouping based on base station in order to provide an easy and effective way of locating mobile terminals.

Regarding **claim 18** the combination of Hendrey et al and Chandhok et al fails to disclose identifying local mobile terminals within a local area of the inviting mobile terminal comprises identifying local mobile terminals within at least a portion of the same cell as the inviting mobile terminal.

In a similar field of endeavor, Fraccaroli discloses that when the handset registers into the base station, the ID of the handset can be sent to the MSC and formed into groups of mobile stations registered in the same base station. These groups of mobile station IDs can be sent to the HLR and its respectively collocated server to match and couple the profiles (see column 5, lines 4-11), which reads on the claimed, “identify local mobile terminals within a local area of the inviting mobile terminal comprises...identify local mobile terminals within at least a portion of the same cell as the inviting mobile terminal.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Hendrey et al and Chandhok et al with

Fraccaroli to include the above grouping based on base station in order to provide an easy and effective way of locating mobile terminals.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey et al in view of Chandhok et al as applied to claim 37 above, and further in view of what was well-known in the art (see MPEP 2144.03).

Regarding **claim 41**, the combination of Hendrey et al and Chandhok et al fails to expressly disclose the use of a user-specified block list.

The Examiner takes Official Notice that a user block list was well known in the art at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Hendrey et al and Chandhok to include the above user block list in order to provide a user with maximum control over the users invited to the local ad hoc group session.

### ***Response to Arguments***

Applicant's arguments filed September 24, 2007 have been fully considered but they are not persuasive.

The Applicant argues the combination of Hendrey et al and Chandhok et al fails to disclose an access list stored in the memory of the group server. The Examiner respectfully disagrees. As recited in the amended rejection above, Hendrey et al disclose and the phone numbers may be predetermined by being entered by the user (see paragraph 48), fulfilling the claimed limitations.



In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation, to take advantages of a PTT system, such as quickness and spontaneity without going through a typical dialing and ringing sequence can be found in Chandhok et al (see paragraph 4).

The Applicant makes similar arguments with respect to the remainder of the claims, however for the same reasons outlined above, the Examiner respectfully disagrees.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles N. Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bryan Fox  
October 1, 2007

  
CHARLES N. APPIAH  
SUPERVISORY PATENT EXAMINER